

9.12.3

# EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

Teleconference Meeting  
Tuesday, February 9, 1999  
10:00 o'clock a.m.

Third Floor Conference Room  
645 G Street  
Anchorage, Alaska

## TRUSTEE COUNCIL MEMBERS PRESENT:

U.S. DEPARTMENT OF AGRICULTURE -  
U.S. FOREST SERVICE (Chairman)

MR. DAVID GIBBONS  
Trustee Representative

STATE OF ALASKA -  
DEPARTMENT OF LAW:  
(Telephonically)

MR. CRAIG TILLERY  
Trustee Representative  
for the Attorney General

STATE OF ALASKA - DEPARTMENT  
OF FISH AND GAME:  
(Telephonically)

MR. FRANK RUE  
Commissioner

U.S. DEPARTMENT OF INTERIOR:  
(Telephonically)

MR. BOB ANDERSON  
Special Assistant to the  
Secretary for Alaska

U.S. DEPARTMENT OF COMMERCE - NMFS:  
(Telephonically)

MR. STEVE PENNOYER  
Director, Alaska Region

STATE OF ALASKA - DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION:  
(Telephonically)

MS. MICHELE BROWN

Proceedings electronically recorded, then transcribed by:  
Computer Matrix, 3522 West 27th, Anchorage, AK - 243-0668

1	<b>TRUSTEE COUNCIL STAFF PRESENT:</b>	
2	MS. MOLLY McCAMMON (Telephonically)	Executive Director EVOS Trustee Council
3		
4	MR. ERIC MYERS	Director of Operations EVOS Trustee Council
5	MS. TRACI CRAMER (Telephonically)	Director of Administration EVOS Trustee Council
6		
7	MS. REBECCA WILLIAMS	Executive Secretary EVOS Trustee Council
8	MS. SANDRA SCHUBERT	EVOS Staff
9	DR. BOB SPIES (Telephonically)	Chief Scientist
10		
11	MR. STAN SENNER (Telephonically)	Science Coordinator
12	MR. HUGH SHORT	Community Facilitator EVOS Staff
13		
14	MR. BUD RICE	Department of Natural Resources
15	MR. BARRY ROTH (Telephonically)	Attorney-Advisor Conservation & Wildlife Division Department of the Solicitor
16		
17	MR. JIM FALL	Alaska Department of Fish & Game, Division of Subsistence
18		
19	MS. CLAUDIA SLATER	Alaska Department of Fish & Game
20		
21	MS. GINA BELT	Department of Justice
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TABLE OF CONTENTS

**Public Comment:**

Ms. Pamela Brodie	05
Approval of the Agenda	07
Executive Director's Report	08
Proposed Update on Injured Services List (Ms. McCammon)	10
Proposed Update on Injured Species List (Mr. Senner)	21

P R O C E E D I N G S

(On record - 10:09 a.m.)

CHAIRMAN GIBBONS: Why don't we call the meeting to order and we have some public here, I'm not sure if they want to testify or not. Show a hands of anybody in Anchorage who wants to testify?

MR. RUE: Do we -- excuse me, Mr. Chairman.

CHAIRMAN GIBBONS: Yes.

MR. RUE: Do we have a subject for public testimony and/or time limits you want to put on people?

CHAIRMAN GIBBONS: Well, I think the time limits, we try to limit them to about three minutes each and the subject would be the injured services and the injured resources list. The proposed update.

MR. RUE: Okay.

MR. PENNOYER: Mr. Chairman, excuse me, do you have the net on; are there other communities besides Anchorage?

CHAIRMAN GIBBONS: Yes, I was going to go around. I heard some other people were on the line, I heard Pam Brodie on the line. I've got a list here in front of me now. Yeah, Kodiak, are you on the line?

MS. SCHWANTES: Yes, this is Brenda Schwantes.

CHAIRMAN GIBBONS: Do you have anybody there that would like to testify?

MS. SCHWANTES: No, I'm just listening in

1 today.

2 CHAIRMAN GIBBONS: Okay. Homer, are you on the  
3 line?

4 MS. BRODIE: Yes.

5 CHAIRMAN GIBBONS: Pam, do you have anybody  
6 that wants to testify?

7 MS. BRODIE: Just me.

8 CHAIRMAN GIBBONS: Okay. Why don't you start?

9 MS. BRODIE: Well, I'll be very brief. I would  
10 just like to encourage the Trustee Council to be conservative  
11 about removing injured species and services from the list to  
12 make sure that you really are sure they're completely recovered  
13 or on the road to recovery before changing their status.

14 That's all, thank you.

15 MR. PENNOYER: Mr. Chairman.

16 CHAIRMAN GIBBONS: Yes.

17 MR. PENNOYER: Can I ask a question?

18 CHAIRMAN GIBBONS: Sure, go ahead.

19 MR. PENNOYER: Pam, Steve Pennoyer, did you  
20 have anything specific, a particular resource you were most  
21 concerned about? The new list we got has recovered bald eagle  
22 and river otter, and those are the only two I think that -- if  
23 I interpret these lists correctly, that are listed, at the  
24 moment, as recovered. Were you concerned about either one of  
25 those or about the -- how we're going to use these categories

1 or what, particularly was your concern?

2 MS. BRODIE: There was some discussion in the  
3 public testimony at the last meeting about, I thought, about  
4 pink salmon, wasn't it? And I thought that there were some  
5 other species that were maybe going to be moved to "recovering"  
6 and some dispute about it. I'm sorry I don't have any specific  
7 knowledge about these.

8 MR. PENNOYER: That's fine, thank you very  
9 much.

10 MS. BRODIE: Thank you.

11 CHAIRMAN GIBBONS: Anybody else in Homer,  
12 Pamela?

13 MS. BRODIE: No, I'm the only one here.

14 CHAIRMAN GIBBONS: Okay. I noticed Jim Fall is  
15 on the line, Jim, you want to testify?

16 MR. FALL: I'm here representing the Division  
17 of Subsistence, Fish and Game, just if there's any questions  
18 about the research that was recently completed on the status of  
19 subsistence.

20 CHAIRMAN GIBBONS: Okay. Thank you, Jim. That  
21 appears to be everybody that wants to testify. Maybe, Molly,  
22 we can go into the Executive Director's report now.

23 MS. McCAMMON: Yes. Is Mr. Tillery there or on  
24 the line yet?

25 CHAIRMAN GIBBONS: He's not here.

1 MR. TILLERY: I'm here.  
2 CHAIRMAN GIBBONS: Oh, okay.  
3 MS. McCAMMON: He's on the phone?  
4 MR. TILLERY: Yep.  
5 MS. McCAMMON: Okay, we do have a quorum then.  
6 CHAIRMAN GIBBONS: Yeah, but maybe I can --  
7 I'll step back one more and maybe ask for approval of the  
8 agenda.  
9 MS. McCAMMON: Mr. Chairman, I have two changes  
10 to the agenda.  
11 CHAIRMAN GIBBONS: Okay.  
12 MS. McCAMMON: Actually just one thing and that  
13 is we did notice an executive session on habitat negotiation,  
14 if needed, and I just wanted to let you know we don't need an  
15 executive session today.  
16 CHAIRMAN GIBBONS: Okay.  
17 MR. RUE: Was there another change? You said  
18 two.  
19 MS. McCAMMON: Actually there was only one.  
20 MR. RUE: Thank you.  
21 CHAIRMAN GIBBONS: Okay. Do I have a motion to  
22 approve the agenda then, as amended?  
23 MR. RUE: So moved.  
24 MR. ANDERSON: Second.  
25 CHAIRMAN GIBBONS: Moved and seconded, all in



1 favor say aye.

2 IN UNISON: Aye.

3 CHAIRMAN GIBBONS: Okay. Agenda's been  
4 approved.

5 Molly, you want to go into the Executive Director's  
6 report?

7 MS. McCAMMON: Yes, thank you, Mr. Chairman. I  
8 only have a few items to report on today, really quickly. The  
9 first one is that the draft audit is now out for agency review.  
10 All of the comments, individual comments, from the agencies are  
11 due in about two weeks and the final audit should be completed  
12 by early March.

13 We're also still putting together various items for the  
14 10th Anniversary in March. The Trustee Council's documentary  
15 is now completed. Copies of it are being sent out to the  
16 Trustees and to every high school and science teacher in the  
17 spill area and to libraries in the spill area. It will be  
18 shown statewide on Public TV on March 17th. In addition, the  
19 National Geographic TV Special will aired on March 17th on, I  
20 believe, the Discovery Channel, hopefully they won't be at the  
21 same time. And one other show that also will be airing that we  
22 know of for sure is 60 Minutes is doing a special on the spill  
23 and that's supposed to air on March 14th.

24 So, as you can see, the media interest in the  
25 anniversary is greatly intensified. The National Geographic

1 Magazine special on the oil spill and the Restoration Program  
2 is due out tomorrow, actually should be getting copies here in  
3 Washington, D.C., tomorrow and then it should hit the  
4 newsstands and be available in the next week or so. So lots of  
5 attention there.

6 We're also trying to get the final agenda put together  
7 for that date, and I'll be talking to some of you individually,  
8 especially on the Federal side, about some Federal  
9 representatives.

10 On another item, with Eyak, the final recording of the  
11 documents took place last Friday, the funds are now in an  
12 established escrow account. The proxy is supposed to go out to  
13 shareholders today with a meeting scheduled for Eyak  
14 shareholders on March 2nd. And that would be for the final  
15 vote on the changes since the proxy vote in October.

16 The other item I just wanted to remind you, is that  
17 we're still scheduled for a meeting on March 1st and this would  
18 be on taking action on updates to the injured services list and  
19 the deadline for public comment on that list is February 26th  
20 and then also for action on the Restoration Reserve. And  
21 deadline for public comment on the Restoration Reserve is  
22 February 12th. And we'll be putting together a compilation of  
23 all the public comments and getting that out to you, probably  
24 the week following.

25 So those are the only items that I wanted to report to

1 you today.

2 CHAIRMAN GIBBONS: Okay. Thank you, Molly.

3 Any questions or comment?

4 MR. PENNOYER: Mr. Chairman, may I ask one?

5 CHAIRMAN GIBBONS: Sure, Steve.

6 MR. PENNOYER: Molly, I probably have this  
7 somewhere but you mentioned a deadline for public comment on  
8 the Reserve was February 12th, when is our action decision  
9 listed out for?

10 MS. McCAMMON: It's scheduled for March 1st.

11 MR. PENNOYER: Okay, at a meeting on March 1st?

12 MS. McCAMMON: Yes, in Anchorage.

13 MR. PENNOYER: Thank you.

14 CHAIRMAN GIBBONS: Any other questions or  
15 comments?

16 (No audible responses)

17 CHAIRMAN GIBBONS: Okay, hearing none, Molly,  
18 how do you want to handle the briefing on the injured services  
19 list and on the injured resources list?

20 MS. McCAMMON: Mr. Chairman, what I recommend  
21 is that I will do the briefing on the injured services list and  
22 I also have some additional staff available if there are any  
23 questions about a couple of those. And then Stan Senner is  
24 here to provide an update on the injured resources list. And I  
25 don't know if we completed public comments.

1 CHAIRMAN GIBBONS: There was no other public  
2 comment, I'm aware of. I heard a couple of people come on, if  
3 people want to -- new people have added to the list who want to  
4 make public comment, please speak up.

5 (No audible responses)

6 CHAIRMAN GIBBONS: Hearing none.

7 MS. McCAMMON: Okay. Going on the proposed  
8 update on injured services list. In your packet you will find  
9 an update on human services. This list was last updated in the  
10 Restoration Plan in 1994 when we did the update on injured  
11 resources in 1996.....

12 OPERATOR: Adding Lillian Elvsaaas at this time.  
13 Thank you.

14 MS. McCAMMON: .....we didn't do any -- we did  
15 only some very, very minor changes on the services themselves.  
16 So this is actually the first, more comprehensive look at  
17 injured services.

18 There are four basic services that we look at for  
19 update this year. The first one is commercial fishing and  
20 we're proposing that that be declared recovering. Commercial  
21 fishing is a service that was reduced for injury to commercial  
22 fish species and also through fishing closures. In 1989,  
23 closures affected fisheries in the Prince William Sound, Cook  
24 Inlet, the Outer Kenai Coast and Kodiak and Chignik. Recovery  
25 is underway, but not complete for three of the injured

1 resources that are commercially fished, and those are pink  
2 salmon, sockeye salmon and Pacific herring. The recovery  
3 status of rock fish is unknown.

4         There have been no spill-related, district-wide fishery  
5 closures related to oil contamination since 1989. However, the  
6 Prince William Sound herring fishery was closed from 1993 to  
7 '96 due to a disease outbreak that may be related to the oil  
8 spill. And it has only been limited -- it's been only opened  
9 to limited commercial harvest in 1997 and 1998.

10         And for those reasons, commercial fishing, as a lost or  
11 reduced service, is in the process of recovering from the  
12 effects of the oil spill, but full recovery has not been  
13 achieved.

14         One of the things that our description in the proposed  
15 update went through was a description of the commercial fishing  
16 industry as opposed to service of the industry, prior to the  
17 oil spill. And a period before the oil spill was a time of  
18 relative prosperity for many commercial fishermen. And that  
19 was part of the reason that the fishery closures and other  
20 spill effects were so disruptive. For a variety of reasons  
21 income disruptions do continue today, as evidenced by changes  
22 in average earnings, ex-vessel prices and limited entry permit  
23 values.

24         And just as an example, for the Prince William Sound  
25 seine fishery, for the period 1981 to 1997, the fishermen's

1 average earnings peaked in 1987 to '88, dropped in '89 to about  
2 the level in the mid-'80s, rebounded in 1990, then hit a severe  
3 low and ever since have hovered somewhat below the 1989 level.  
4 The ex-vessel prices have been below prices of the early 1980s  
5 ever since the 1989 oil spill.

6 Limited entry permit values reached a peak in 1989 to  
7 '91 and they nearly doubled in value at that time and ever  
8 since they have declined to roughly 15 percent of their peak  
9 value. And the number of permits in that fishery have declined  
10 from about 250 each year from 1981 to 1991 to about 114 permits  
11 based in 1997.

12 Of course, natural variability and fixed returns and  
13 the number of economic changes in the fishing industry since  
14 1989 probably means that many of these changes in income are  
15 not directly attributable to the spill. However, these factors  
16 also make discerning spill-related impacts difficult.

17 The recovery objectives that the Council has -- that we  
18 are proposing here is that commercial fishing will have  
19 recovered when the commercially important fish species have  
20 recovered and opportunities to catch these species are not lost  
21 or reduced because of the effects of the oil spill.

22 For the service of passive use, we are again  
23 recommending that it be considered recovering. Passive use  
24 encompasses non-use values, such as the appreciation of the  
25 esthetic and intrinsic values of undisturbed areas and the

1 value derived from simply knowing that the resource exists.  
2 These kinds of injuries are tied to public perceptions of  
3 injured resources. Because recovery of a number of injured  
4 resources is incomplete, and in some cases has not even begun,  
5 the Trustee Council considers passive use as a lost to reduced  
6 service to be recovering from the spill, but not fully  
7 recovered.

8           As you'll recall, immediately following the oil spill  
9 the State of Alaska, using a contingent valuation approach  
10 measured substantial losses of passive use values resulting  
11 from the spill. They did this by surveying a sample of  
12 households across the country to elicit how much people would  
13 be willing to pay in additional taxes to fund a program  
14 designed to prevent future spills. And there were a number of  
15 questions that were asked in putting together that survey.

16           In updating the status of passive uses 10 years after  
17 the spill, the Council has chosen not to repeat the contingent  
18 evaluation study which was very expensive and time-consuming.  
19 However, the key to recovery of passive use is knowing that  
20 restoration of injured resources has occurred. And towards  
21 this end and in the years since the settlement, the Council has  
22 undertaken a comprehensive program to restore injured resources  
23 and has made a deliberate and consistent effort to inform the  
24 public about the status of restoration.

25           So the strategies for addressing the loss of passive

1 use are, first of all, the Council's Restoration Program, which  
2 is comprised of two major efforts, the Research, Monitoring and  
3 General Restoration Program and then the Habitat Protection and  
4 Acquisition Program. And in those programs, even projects to  
5 monitor the status of injured resources, such as killer whales,  
6 for which no active restoration may be possible, are also  
7 funded, because it's important to let people know the status of  
8 those resources.

9         In our update, and I won't go into all the details  
10 here, but we do go into quite a bit of detail describing the  
11 Council's public information efforts. These include the  
12 newsletter and the Work Plan, the annual status report, weekly  
13 radio series, weekly newspaper column, websites, the  
14 restoration notebook series, written reports from the Council's  
15 projects, articles in peer review scientific literature, Public  
16 Advisory Group, our meeting in the spill area communities, an  
17 exhibit that's been developed to travel the spill area  
18 communities, the exhibit at the SeaLife Center, the 30-minute  
19 video that has just been produced and a number of other items.

20         For the recovery objective for passive use is passive  
21 uses will have recovered when people perceive the esthetic and  
22 intrinsic values associated with the spill area are no longer  
23 diminished by the oil spill.

24         The third major lost or reduced service is recreation  
25 and tourism. The oil spill disrupted use of the spill area for



1 recreation and tourism. In the years since the spill, however,  
2 there's been a marked increase in the number of visitors to  
3 Alaska from approximately 600,000 in the summer of 1989 to over  
4 1.1 million in the summer of 1997. And there's been a similar  
5 increase in visitation to the spill area overall.

6         However, the Council's recovery objective requires that  
7 the injured resources important to recreation be recovered and  
8 recreational use of oiled beaches not be impaired and this  
9 objective has not been met. For that reason, the Council would  
10 find recreation to be recovering from the effects of the spill  
11 but not fully recovered.

12         Several resources important for wildlife viewing still  
13 are not recovered from the spill or their recovery is unknown.  
14 And this includes killer whales, harbor seals, common loons,  
15 cormorants, Kittlitz's murrelet and pigeon guillemots. A  
16 number of other resources important for wildlife viewing are  
17 recovering.

18         In order to come up with this analysis, staff conducted  
19 telephone interviews early this year with key informants who  
20 recreated extensively in the oil spill area before the spill  
21 and are doing so currently. Nearly all of the key informants  
22 with experience in Prince William Sound continue to report  
23 diminished wildlife sightings in the Sound, especially in those  
24 areas that have been most heavily oiled. They reported seeing  
25 significantly fewer seabirds, killer whales, sea lions, seals

1 and sea otters since the spill. They also have reported  
2 diminished sighting of seabirds, seals and sea lions along the  
3 Outer Kenai Coast.

4 Sport fishing resources which are still injured by the  
5 spill for which the recovery status is unknown are cutthroat  
6 trout, Dolly Varden, and rock fish. And there continues to be  
7 some closures of those. The harlequin ducks which are hunted  
8 in the spill area are still not recovered and there's also  
9 currently a restricted sport harvest of those in Western Prince  
10 William Sound. Those restrictions are currently in place but  
11 being reviewed and may be modified.

12 In addition, the Council has sponsored surveys of oiled  
13 shorelines which indicate that residual oil is still present on  
14 some beaches, especially in Prince William Sound. Key  
15 informants still indicate that some of these beaches,  
16 especially in the western portion of the Sound continue to be  
17 avoided by some recreational users, especially kayakers and  
18 campers because of the presence of residual oil. The  
19 informants have indicated that the possible presence of  
20 residual oil does not seem to be having an effect on  
21 recreational activities along the Outer Kenai Coast, the Kodiak  
22 Archipelago and the Lake Clark and Katmai National Park  
23 coastline.

24 Recreational users have benefited greatly from the  
25 Council's Large Parcel Habitat Acquisition Program which is

1 opening more than 1,300 miles of shoreline and 280 salmon  
2 streams to public use. Several of the small parcel  
3 acquisitions also have specific recreational significance.

4 Recreation was also effected by changes in human needs  
5 in response to the spill. For example, displacement of use  
6 from oiled areas to unoiled areas, particularly in the years  
7 immediately following the spill includes management problems  
8 and facility use in unoiled areas.

9 The proposed revision to the recovery objective is that  
10 recreation and tourism will have recovered, in large part, when  
11 the fish and wildlife resources on which they depend have  
12 recovered and recreation use of oiled beaches is no longer  
13 impaired.

14 And the final lost or reduced service is subsistence  
15 and this is the one that the Trustee Council has probably  
16 devoted the greatest amount of attention and effort in trying  
17 to get a very accurate update on the status of this service.  
18 Fifteen predominantly Alaska Native communities with a total  
19 population of about 2,200 people in the spill area rely heavily  
20 on harvest of subsistence resources. Household interviews  
21 conducted with subsistence users in communities throughout the  
22 spill area, in 1989, indicated that subsistence harvest of fish  
23 and wildlife in most of the communities declined substantially  
24 following the spill. These interviews were repeated each year,  
25 1990 to '93 and then again in 1998, last year.

1           By 1993, already, the estimated size of a subsistence  
2 harvest appeared to have returned to prespill levels in some  
3 communities. And in 1998 interviews indicated that subsistence  
4 continues to recover from the effects of the oil spill, but is  
5 not fully recovered. The percentage of those interviewed who  
6 reported that subsistence uses are lower than before the spill  
7 has declined. So fewer people are saying now that subsistence  
8 uses are lower than before.

9           In addition, concerns about food safety and effects on  
10 the traditional lifestyle have lessened, however, concerns  
11 about resource availability remain and although harvest levels  
12 in all the communities interviewed are at or approaching  
13 prespill levels. I think it's important to note here that the  
14 average per person subsistence harvest in 1998 is 250 to 500  
15 pounds per person, which indicates there is still a very strong  
16 dependence on subsistence resources in the spill area.

17           Regarding resource availability, subsistence users  
18 continue to report scarcity of a number of important resources.  
19 So they're spending more time in having to travel farther to  
20 get those resources. In addition, there is also a greater  
21 reliance on fish in the subsistence diet. And this, to a large  
22 degree, has replaced fewer marine mammals and shellfish in the  
23 diet. Interviews indicate that the increased fish consumption  
24 is attributable, in part, to enhancement projects funded by the  
25 Trustee Council. Almost all of the folks and various teenagers

1 various teenagers that had some kind of enhancement project  
2 nearby were aware of that project and had taken advantage of  
3 it.

4         Subsistence users continue to emphasize that the value  
5 of subsistence cannot be measured in pounds alone. Harvest  
6 levels do not encompass the cultural value of traditional and  
7 customary use of natural resources. Following the spill, there  
8 was concern that the spill had disrupted opportunities for  
9 young people to learn subsistence culture, and that this  
10 knowledge might be lost to them in the future. In 1998 the  
11 number of subsistence users reporting a decline in the  
12 influence of elders in teaching subsistence skills had  
13 decreased and the number that reported that young adults are  
14 learning about subsistence skills had increased, so things seem  
15 to be improving in that regard.

16         Also the number who reported less sharing of  
17 subsistence resources, which is another key aspect of the  
18 subsistence culture, had decreased. However, many of those  
19 interviewed continued to express concern about these elements  
20 of the traditional lifestyle, with more than 50 percent  
21 responding that the traditional way of life has not recovered  
22 since the spill.

23         I think one other thing to note, though, is that in the  
24 1998 household interviews, the number of subsistence users also  
25 commented that some of the current influences on subsistence

1 may not be directly attributable to the spill. In spite of  
2 that, they still believe that there still has not been complete  
3 recovery.

4 The recovery objective for subsistence is subsistence  
5 will have recovered when injured resources used for subsistence  
6 are healthy and productive and exist at prespill levels. In  
7 addition, there's recognition that people must be confident  
8 that the resources are safe to eat and that the cultural values  
9 provided by gathering, preparing and sharing food need to be  
10 reintegrated into community life.

11 So those are the four services that we're proposing to  
12 update in this round. And I do have -- on the line here we  
13 have Sandra Schubert in the Restoration office in Anchorage,  
14 she did most of the work on commercial fishing, passive use and  
15 recreation. And we have Jim Fall with the Division of  
16 Subsistence, Alaska Department of Fish and Game who coordinated  
17 all of the survey work on the subsistence service. And I'd be  
18 happy to answer any questions or have any of the staff, if  
19 you'd like.

20 CHAIRMAN GIBBONS: Thank you, Molly. Are there  
21 any questions for Molly or Jim or Sandra?

22 (No audible responses)

23 CHAIRMAN GIBBONS: Good. Molly, as I  
24 understand it that the public comment closes on the 26th of  
25 February, so this was a briefing for us and that we'll discuss

1 this further at the March 1st meeting; is that correct?

2 MS. McCAMMON: That's correct.

3 CHAIRMAN GIBBONS: Okay. Any questions?

4 (No audible responses)

5 CHAIRMAN GIBBONS: None here.

6 MS. McCAMMON: Okay. Hearing none, the next  
7 item on the agenda is the proposed update to the injured  
8 resources list. And as you know, we briefed you at the last  
9 meeting on some proposed staff changes to that list. Since  
10 that time there was a discussion on a number of species at that  
11 meeting. In addition, there was some public comment, public  
12 testimony, at the meeting. We've also received some additional  
13 testimony, written comments since that time. And Stan Senner  
14 is here and will walk you through some further proposed  
15 changes.

16 MR. SENNER: And Bob Spies is also on the line.  
17 Bob, you still there?

18 DR. SPIES: Yes, I am.

19 MR. SENNER: If you'll turn in your materials  
20 to the tab for injured resources, there's a summary page or a  
21 cover piece that describes -- proposed substantive changes in  
22 the January 1999 draft update. And that is the version that we  
23 received public comment on and that you discussed at your  
24 meeting on January 22nd, I believe. So the summary of changes  
25 in front of you relate back to that January document.

1           To start off, then, I don't plan to discuss each of  
2 these in detail or, I should say, we'll discuss them in as much  
3 detail as you like, but I won't start out going through each of  
4 them in great depth. The first change is that there was public  
5 comment and also discussion in the Trustee Council meeting  
6 about what are really the purposes of the list of injured  
7 species and what some of the background on some of the updates  
8 that have taken place.

9           So what we have done is drafted an introduction. That  
10 would be at the front of the document on those inside front  
11 cover and facing page. You've got a copy of that proposed  
12 introduction, I won't go through it here except to say that it  
13 does review what we understand to be the purposes of the list.  
14 It gives some background on previous updates and, lastly, it  
15 gives some perspective on the recovery of the ecosystem itself  
16 and the difficulty of separating oil spill injuries from  
17 lingering changes in the ecosystem as time goes on.

18           I'd also like to mention the revised -- the changes to  
19 the table of injured resources and services and then we'll stop  
20 and ask for your comments or questions on those two items. If  
21 you'll just move on in your packets, then, there is a new table  
22 headed "Status of Injured Resources and Services, February 10,  
23 1999." This should be marked more prominently with a "Draft"  
24 but, of course, everything in this packet is a draft for your  
25 review.



1           This table is recast to do two things. One is that  
2 although the Trustees choose to categorize individual resources  
3 in three categories, such as not recovering, recovering or  
4 recovered, in fact, recovery is something that takes place  
5 along a continuum. So we've tried to convey that here with  
6 some arrows showing that there's really a progression here from  
7 not recovering, recovering, recovered. And this actually arose  
8 out of a suggestion from Chris Beck on the Public Advisory  
9 Group.

10           And the second part of this to draw your attention to  
11 is that there were some questions about what exactly do these  
12 different categories mean. So you'll note that under each of  
13 those headings there is a brief statement or definition of what  
14 that category addresses, such as under "not recovering" that  
15 the species are showing little or no clear improvement since  
16 spill injury has occurred.

17           Now, I'll pause there to ask if there are questions on  
18 either the introductory material or the way that this table is  
19 presented?

20                       MR. RUE: (Indiscernible - phone disturbance)

21                       MS. McCAMMON: Are we still on line?

22                       CHAIRMAN GIBBONS: Yes, we are.

23                       MR. SENNER: Okay. Frank Rue was breaking up  
24 there.

25                       MR. RUE: All right. Is that better?

1 MR. SENNER: Yes.

2 MR. RUE: I have a quick question. When I saw  
3 (phone breaks up) more recovered than the Ps through F?

4 MR. SENNER: Frank, you're still cutting out  
5 for us, we missed the first half of that.

6 MR. RUE: Okay. Well, the alphabetical listing  
7 of the resources recovering appeared to indicate degree of  
8 recovery, just because of the continuum, I think.....

9 MR. SENNER: Right. That is not our intent.  
10 We simply -- in fact, we listed them alphabetically purposely  
11 so as not to imply any other ordering to them.

12 MR. RUE: You may want to think about a graphic  
13 way of doing that also. Small point.

14 MR. SENNER: Okay. So we'll try and be  
15 creative about that. There was a suggestion that we actually  
16 order them along the continuum, but then we thought that would  
17 only lead to big arguments about exactly which order was  
18 appropriate.

19 MR. RUE: Right.

20 MR. SENNER: Okay. Other questions on the  
21 introductions or the table?

22 MR. PENNOYER: Mr. Chairman.

23 CHAIRMAN GIBBONS: Yes, Steve.

24 MR. PENNOYER: Stan, I'm a little confused on  
25 it. It says "resources in boldface have moved on this recovery

1 line during the most recent update." And I then looked at what  
2 you had here and looked at the original list and, for example,  
3 the original list we had pink salmon as recovered, but they  
4 don't show in boldface on this under "recovering." And I  
5 didn't understand that. I think I understand the table, I  
6 didn't understand the footnote.

7 MR. SENNER: Okay. I'm sorry if that's  
8 confusing. That is a reference to these -- the items in  
9 boldface have changed since the September '96 update, we're not  
10 referring back to the January draft, but back to September '96,  
11 so the only change on this list, the February list from the  
12 January list, is that pink salmon would remain in the  
13 recovering category, which is where it was in September of '96.  
14 The other -- so that's why that's not in bold here, the other  
15 boldface changes relate back to September '96.

16 MR. PENNOYER: Mr. Chairman, Stan, so I don't  
17 know whether you need to find a different way to do that or  
18 some way to -- maybe the text highlights adequately what things  
19 have changed in our view since previous, like you said,  
20 September levels. Maybe.....

21 MR. SENNER: Yeah, we could make clear that the  
22 change is with reference to September '96, that would be easily  
23 done and we don't -- yes, you're right, we don't say that,  
24 that's unclear.

25 MR. PENNOYER: It might be helpful because the

1 public went through the discussions we had in February as well  
2 and knows that we've moved pink salmon and sockeye back and  
3 forth in that discussion.

4 Thank you.

5 MR. SENNER: Okay. That's a good suggestion.  
6 Anything else on those two items?

7 (No audible responses)

8 MR. SENNER: Okay. Then in terms of the  
9 changes in text, here I particularly will not go through them  
10 all in detail, but these represent a series of updated  
11 information and clarifications, just quickly, as follows.

12 On page five with reference to archaeological resources  
13 we, as a result of your action at the previous Trustee Council  
14 meeting, were able to add a sentence about a commitment of  
15 funds now for repository and local display facilities for  
16 Prince William Sound and Lower Cook Inlet archaeological  
17 resources. So that was just simply an updated piece of  
18 information.

19 On page six with reference to the common loon. Now,  
20 I'm going to come back to the loon when we discuss some of the  
21 public comments, but the only things noted here is that the  
22 recovery objective, the words "proposed revision" would be  
23 dropped if you adopt this list. So simply the recovery  
24 objectives for loons would be spelled out, it would no longer  
25 be proposed.

1           Page seven, this is in regards to clams. There was a  
2 comment in a recent restoration work force meeting that there  
3 was some sense that the text for our clams and the  
4 recommendation that they be moved into the recovering category,  
5 that our text was not entirely clear on what the progress  
6 toward recovery had been, so we reworked that text to more  
7 clearly indicate what the progress is, but also to emphasize  
8 what the problems still are and why full recovery has not been  
9 achieved. There's no change in the status there of the clams  
10 from the January version, but we feel we've improved the text.

11           Then on page nine, which is the designated wilderness  
12 areas, Chairman Gibbons had recommended or asked at the last  
13 meeting that mention be made of the wilderness study area in  
14 the Chugach National Forest as one of he examples of oiled  
15 wilderness and that has now been added to the text.

16           On page 10, again, for the harlequin duck we simply  
17 would drop the words "proposed revision" with reference to the  
18 recovery objective. And there were no public comments on that  
19 proposed revision.

20           Page 14 is, again, substituting new text for the  
21 marbled murrelet account, trying to be a little clearer about  
22 what the nature of the recovery has been and what the problems  
23 are. And also, in this case, sticking to the original recovery  
24 objective rather than making any changes in that objective  
25 right now. It seemed appropriate since that was one jumping

1 from not recovering to recovering status that it was probably  
2 not a good idea to change the recovery objective itself, but to  
3 stick to the original and make our evaluation against that  
4 original objective. So that has -- we then retained the  
5 original recovery objective, that is September '96, and then  
6 clarified in the text how the murrelet is faring.

7           In the case of -- this is page 15 for Pacific herring.  
8 No change recommended in the status of the species from the  
9 January version that you have before you but, again, we made  
10 some adjustments to the text that we think make a little  
11 clearer what the evidence for recovery is, but also very  
12 clearly the fact that it is not fully recovered or not  
13 recommended as fully recovered.

14           With respect to pink salmon, pages 16 and 17, here is  
15 the only actual status change with reference to the January  
16 version. And you will recall that when Dr. Spies and I came to  
17 you at the January 22nd meeting we had a recommendation that  
18 the pink salmon be considered as recovered. There was public  
19 comment questioning that, as well as the comments from the  
20 Trustee Council, and I think the concern is that we had a very  
21 specific recovery objective that you had previously adopted and  
22 that objective required that there be two odd and two even  
23 years of no differences in egg mortalities in oil and unoiled  
24 streams. And we reported to you that, strictly speaking, that  
25 that recovery objective had not been met because we only had

1 three consecutive years of no differences in egg mortality, not  
2 four, but that we felt on a -- when you stepped back from the  
3 specific recovery objective and looked at the larger sort of  
4 population level, we felt an argument was to be made for  
5 declaring the species recovered.

6           However, it's obvious that there is a great deal of  
7 concern about the toxic effects of lingering oil at the mouths  
8 of intertidal spawning areas for pink salmon, this is something  
9 both voiced by the public and the Trustees. And some of our  
10 work in this area is ongoing, we continue to assess, really,  
11 what sort of exposure problem there is in the Sound.

12           On that basis it seems like the appropriate thing, to  
13 us, is to then leave the pink salmon as a recovering species,  
14 which is where it was in September of '96, rather than  
15 recommending that it be recovered at this point. We do think  
16 somewhere down the road here it would be appropriate for the  
17 Trustees to take another look at whether we have a recovery  
18 objective that gets all of the right elements in there and, I  
19 think, we also think it may be timely to go back out in the  
20 field and do some additional work on exposure levels to pink  
21 salmon in the field.

22           So I'll just pause on that one and ask if there are  
23 questions or comments with reference to pink salmon?

24           (No audible responses)

25           CHAIRMAN GIBBONS: None here, Stan.

1 MR. SENNER: Okay. Well, the last change in  
2 the text here was that sockeye would remain as a recovering  
3 species, but we were able to incorporate a bit of new  
4 information into the text that I think, again, makes clearer  
5 that recovery is underway but that it has not yet -- we're not  
6 yet at a point where we can declare with confidence that full  
7 recovery has been achieved.

8 MR. PENNOYER: Mr. Chairman. Stan, on that  
9 last one, the thing we got in February, I think, had them  
10 listed as recovered, but is then, basically -- and I'm not sure  
11 the text says that, the fact that we don't yet have all the  
12 returns from the brood years to add up the return per spawner?

13 MR. SENNER: That's exactly right,  
14 Mr. Pennoyer. Now, in the January account, it was only  
15 recommended as recovering so there isn't a change there, but  
16 that's the one where we had some confusion because our  
17 introductory cover letter made reference to sockeye as  
18 recovered, but our actual recommendation was that they were to  
19 remain as recovering. It's just for the reasons you state that  
20 we got several more brood years to come back.....

21 MR. PENNOYER: The earlier version, yeah.

22 MR. SENNER: .....before we really feel we can  
23 declare with confidence that it's a recovered species.

24 MR. PENNOYER: Yeah, thank you. I have a table  
25 here indicating November 19th they were listed as recovered,



1 but then again in February you came back and, you're right,  
2 there was some confusion in the discussion. Maybe -- the text  
3 doesn't clearly say it, I guess, really. It's not unlike the  
4 pink salmon situation, we haven't fulfilled the letter of the  
5 discussion of what the recovery objective was going to be, but  
6 it still looks very positive. So I don't know if the text  
7 adequately reflects that we're waiting for those final results  
8 of those return per spawner or not.

9 MR. SENNER: Well, what we've got here,  
10 Mr. Pennoyer is that returns from the '93 to '95 brood years  
11 are not complete because some of these fish are still at sea,  
12 but returns to date show promise that management efforts have  
13 been successful, et cetera. Then, therefore, the sockeye  
14 salmon of the Kenai River watershed are recovering from the  
15 effects of the 1989 overescapement and then we go through some  
16 similar language with respect to Red and Akalura Lakes.

17 MR. PENNOYER: Mr. Chairman, Stan, I see that.  
18 I'm still wondering about on pink salmon we know we need one  
19 more year before we'll have to make the judgment of the two  
20 year, two cycle recovery -- between oiled and unoiled areas  
21 that we set out. How long is this going to take? I mean, how  
22 many brood years? Some sockeye populations have fish that are  
23 in the population up to seven, eight, nine, 10, Karluk, of  
24 course, 15 or 16 years, very minor percentage. Is there any  
25 view in this discussion as to when we might reach that

1 MR. SENNER: We didn't outline it here,  
2 Mr. Pennoyer, but from the information we have from, for  
3 example, Ken Tarbox with respect to the Kenai River, I  
4 think we're looking at a couple more seasons of returns and  
5 then we should be able to bring closure to this.

6 MR. PENNOYER: Okay, thank you.

7 MR. SENNER: Okay. The last part of this is in  
8 regard to public comment, and at the bottom of that summary  
9 sheet there is a heading called "Responses to Public Comment."  
10 Yesterday we received an additional comment about loons, which  
11 I'll come to in a moment, but we had -- at the time this was  
12 printed, we had received five public comments from four  
13 individuals. Riki Ott had testified that pink salmon should  
14 remain as recovering rather than recovered. And that is now  
15 our recommendation that it remain as recovering. She had also  
16 questioned the change of sea otters and Pacific herring from  
17 not recovered to recovering and we continue to recommend that  
18 recovering is the appropriate status for those two species.  
19 And I'm happy to walk through that if anyone wants to. So that  
20 is our response to Riki Ott's comment.

21 Danny Carpenter also had made the same comment about  
22 pink salmon, so we think that's been addressed.

23 Kim Sundberg from Seward had given both an oral  
24 statement and letter indicating that projects on several  
25 injured species were being carried out at the SeaLife Center

1 injured species were being carried out at the SeaLife Center  
2 and that their preliminary findings were consistent with the  
3 status assessment that we presented in the recovery update.

4         Lastly here, Nancy Lethcoe of Valdez wrote a letter  
5 more about -- sort of editorial content in the sense that we  
6 had run some undated photos that involved oiled beaches and  
7 cleanup back in '89 and I think we hadn't adequately indicated  
8 in the caption what year those photos were taken and she was  
9 concerned that it could mislead people into thinking that these  
10 were the conditions that prevailed today. So we'll make those  
11 changes.

12         Then the last public comment is one that you should  
13 have been faxed, I think, yesterday afternoon. We got it  
14 yesterday morning from a Mr. Jeff Fair, who is a consulting  
15 biologist in Anchorage. This is in regard to common loons.  
16 And his -- Mr. Fair marches through, fairly carefully, some of  
17 the uncertainties in the limited dataset that we have with  
18 respect to common loons. And in September of '96 and also in  
19 the January draft -- excuse me. In September of '96 common  
20 loons were recommended or were in the recovery unknown category  
21 and we have recommended in January, and now in February, that  
22 they move into the not recovering category. And I think the  
23 essence of Mr. Fair's comments are that he doesn't believe we  
24 have sufficient information to make a judgment, one way or  
25 another, on their recovery status and, therefore, recovery

1 unknown is the most appropriate category.

2 I won't go through all of this in detail, but I can say  
3 that he does a good job of outlining uncertainties, I think he  
4 attributes to us some assumptions that we haven't made. For  
5 example, we've made no claims that the survey data from the  
6 boat surveys from March and July gives us any information about  
7 impacts on breeding populations of common loons because we  
8 don't know where these birds go to breed and we don't know  
9 ultimately what any effects are on breeding populations.

10 The listing of the common loon as an injured species to  
11 begin with largely was dependent on the moreage [sic] data, the  
12 fact that there were more than 200 common loons recovered and  
13 that given the small populations, that this was a rather  
14 substantial hit. There also was some Fish and Wildlife Service  
15 survey data from Prince William Sound, also indicating negative  
16 effect.

17 We look to these multi-species boat surveys for signs  
18 of recovery and we can readily acknowledge that the boat  
19 surveys, because they're for multiple species, are not equally  
20 good or equally useful for all species, but they are the only  
21 data that we have systematically gathered and repeated now  
22 numerous times for a whole fleet of marine birds, including  
23 loons.

24 The interpretation of the common loon data, as well as  
25 the data for loon species which would include four species of

1 loons and unidentified loons. The interpretation of those data  
2 as not recovering is entirely consistent with how other marine  
3 bird data have been interpreted. There is nothing new or  
4 different about the way the common loon is handled. And I did  
5 reconfirm yesterday morning with Dave Irons of the Fish and  
6 Wildlife Service, who's the PI on the survey project, that  
7 indeed their data do not indicate any specifically significant  
8 evidence of positive population trends for either common loons  
9 as a single species or all four loons if you group there.

10 So we continue to believe, I think, that the not  
11 recovering category is appropriate for the common loons, but we  
12 can readily acknowledge that there are a number of  
13 uncertainties herein and we probably know less about the common  
14 loon than any of the other bird species on the injured list,  
15 with the exception of Kittlitz's murrelets, which definitely  
16 are in the recovery unknown category.

17 So that's where we are.

18 CHAIRMAN GIBBONS: Are there any questions for  
19 Mr. Senner?

20 (No audible responses)

21 CHAIRMAN GIBBONS: Molly, I've got a question  
22 for you. I see it starred as a tentative action item. What's  
23 your intent here today with this resources list?

24 MS. McCAMMON: The intent would be for the  
25 Trustee Council to adopt the revisions to the injured resources

1 CHAIRMAN GIBBONS: Okay. Do I hear a motion to  
2 that effect?

3 MR. PENNOYER: Mr. Chairman, I think that the  
4 staff has taken into account very well the issues brought up by  
5 us at the last meeting, and by the public, and the PAG and I  
6 move that we approve their revisions.

7 CHAIRMAN GIBBONS: Do I have a second?

8 MR. RUE: Second.

9 CHAIRMAN GIBBONS: Any discussion.

10 MR. TILLERY: Mr. Chairman.

11 CHAIRMAN GIBBONS: Yes.

12 MR. TILLERY: This is Craig Tillery. I don't  
13 quite understand. This is just going out as a draft, so I  
14 thought, so are we approving a sort of a revision for a draft  
15 to go out or is this a final -- I thought the final action  
16 would be taken in March.

17 MS. McCAMMON: No, Mr. Chairman, this would be  
18 the final action. The draft has already gone out for public  
19 comments, the public comments have been addressed as Stan  
20 described, and so this would be the final action. This would  
21 not be final action for services, but for the resources only.

22 MR. TILLERY: Okay. So it's the services,  
23 then, that'll be addressed then in March?

24 MS. McCAMMON: That's correct. On a slightly  
25 different time schedule.

1 different time schedule.

2 CHAIRMAN GIBBONS: Are there any other  
3 comments?

4 MR. RUE: Mr. Chairman, this is Frank Rue.  
5 Yeah, I feel that Molly's staff addressed the concerns we and  
6 the public had. I would agree with Mr. Pennoyer. And I know  
7 my staff feels comfortable with the way it's portrayed.

8 CHAIRMAN GIBBONS: Good. I have a question  
9 here. Who seconded the motion?

10 MR. RUE: Frank Rue did.

11 CHAIRMAN GIBBONS: Okay, Frank, thank you. Any  
12 other comments, discussion?

13 (No audible responses)

14 CHAIRMAN GIBBONS: Hearing none, we have a  
15 motion on the table, all in favor say aye.

16 IN UNISON: Aye.

17 CHAIRMAN GIBBONS: All opposed?

18 (No opposing responses)

19 CHAIRMAN GIBBONS: Motion is carried. It looks  
20 like that's about the end of the agenda. I have a comment to  
21 make. Theresa Obermeyer showed up after the public comment  
22 period and I informed her of that fact and she passed three  
23 documents to include into the record, so I just wanted to hand  
24 those over.

25 Any other activities for today's meeting?

1 MS. McCAMMON: That's it, Mr. Chairman.

2 CHAIRMAN GIBBONS: Okay. Do I hear a motion to  
3 adjourn?

4 MR. RUE: Mr. Chairman, I move that we adjourn  
5 at exactly 11:00 a.m. as indicated on the agenda.

6 MR. PENNOYER: Second.

7 CHAIRMAN GIBBONS: Okay. We have a motion to  
8 adjourn and seconded, all in favor say aye.

9 IN UNISON: Aye.

10 CHAIRMAN GIBBONS: Opposed?

11 (No opposing responses)

12 CHAIRMAN GIBBONS: Hearing none, we're  
13 adjourned.

14 MR. RUE: Thank you.

15 CHAIRMAN GIBBONS: Uh-huh.

16 (Off record - 11:00 a.m.)

17 (END OF PROCEEDINGS)

18

19

20

21

22

23

24

25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

UNITED STATES OF AMERICA                    )  
  ) ss.  
STATE OF ALASKA                                )

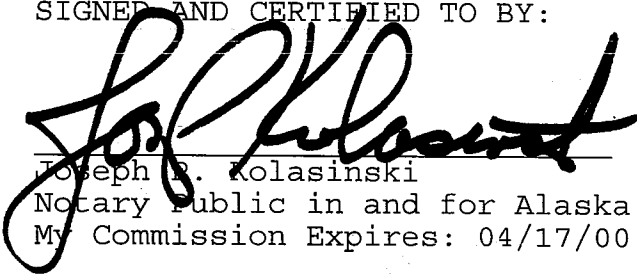
I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and Owner of Computer Matrix do hereby certify:

THAT the foregoing pages numbered 4 through 39 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Teleconference Meeting recorded electronically by me on the 9th day of February 1999, commencing at the hour of 10:09 a.m. and thereafter transcribed by me to the best of my knowledge and ability.

THAT the Transcript has been prepared at the request of:

EXXON VALDEZ TRUSTEE COUNCIL, 645 G Street,  
Anchorage, Alaska 99501;

DATED at Anchorage, Alaska this 14th day of February, 1999.

SIGNED AND CERTIFIED TO BY:  
  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 04/17/00